

STAFFORD COUNTY
PURCHASE OF DEVELOPMENT RIGHTS
COMMITTEE MINUTES
March 24, 2009

The meeting of the Stafford County Purchase of Development Rights Committee for Tuesday, March 24, 2009, was called to order at 7:05 p.m. by Chairman Tom Coen in the County Administration Conference Room of the County Administration Building.

Members Present: Coen, Apicella, Kurpiel, McClevey and Ritterbusch

Members Absent: Clark

Staff Present: Baker, Stinnette, Keyes and Smith

1. Introduction of New Member

Mr. Coen stated the first item on the agenda was to introduce Rod Ritterbusch. He asked Mr. Ritterbusch if he would like to give a brief bio.

Mr. Ritterbusch stated he moved here in 1977 and bought an old farmhouse on the Rappahannock and raised his two children in Stafford. He stated he spent thirty-five years in the Navy and retired in 1999. Other than enjoying his retirement he has been involved with a few things in the County. He stated one was the by-pass road over the Rappahannock, the airport selection and the location for Rocky Run Reservoir.

Mr. Coen stated the Committee was very happy to have Mr. Ritterbusch on board and had each Committee member and staff introduce themselves. He stated they would move on to the next item.

2. Approval of Minutes

- June 24, 2008
- August 12, 2008
- September 23, 2008

Mr. Coen stated the Committee had the June, August and September minutes to approve. He asked if the Committee wanted to approve them together or one at a time. He asked if anyone had any questions.

Mr. Apicella stated he had one change on the September minutes, all the pages reference August 12th and asked if that could be corrected.

Mr. Ritterbusch stated he did miss one of the acronyms and asked about UTSD.

Mrs. Baker stated Urban Transportation Service District.

Mr. Apicella made a motion to adopt the minutes as presented with the change noted to the September minutes.

Ms. Kurpiel seconded.

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Mr. Coen asked if that motion was for all three.

Mr. Apicella stated yes.

The motion passed 5-0 (Ms. Clark was absent).

Mr. Coen stated the Committee would move on to staff update and would turn it over to Mrs. Baker.

3. Staff Update

- Pilot Program update

Mrs. Baker stated a total of three applications had been received and the total acreage was one hundred eighty four with two A-1 properties and one A-2 property. She stated the total number of development rights was close to fifty, so out of the three applications the Committee would not be able to do all three because it would exceed the twenty the Committee was looking to purchase. She stated staff has gone through an initial ranking on these applications and would not do the final ranking until the period closes and staff makes sure all the issues are resolved. She stated most of the issues staff was having now was making sure the ranking was done consistently. Tonight staff was not going to bring a lot of issues to the Committee, it would be just an update and some things to address when the ranking criteria was changed. She stated staff was keeping track of everything so when it came time to look at the changes, they would have everything.

Mr. Coen asked if anyone had any questions.

With no questions or comments, Mrs. Baker moved on to PDR Manager's Meeting.

- PDR Manager's Meeting March 23, 2009

Mrs. Baker asked Ms. Kurpiel if she wanted to comment on the meeting since she attended yesterday.

Ms. Kurpiel stated the meeting was very interesting for her. She stated they discussed the installment purchase agreement and the one aspect they discussed, which she found interesting, was what was happening in the interest rate market. She stated the forecasted interest rate for Stafford was 5.59 per cent, and that was the rate at which they would buy the discounted zero and was also the rate we would pay. She stated currently the rate has gone down to 3.92. She stated that now presents two problems, with the first being that meant the Committee could buy less paper than before. She stated the Committee had planned with their 2 million dollars to buy 5 million in paper and with these rates we could only buy 4.3 million. She stated that was one problem, less development rights and on the other side of the coin the people that are finally using the IPA's are not anxious to take an interest rate of 3.92. She stated there was quite a discussion about how to handle this problem and the expert from Evergreen Financial was present. She stated one other thing discussed which she thought was worth comment was money, where would the Committee get money to fund this program and that was to use revolving funds which was managed by DEQ. She stated it was the fund used to purchase Crow's Nest. She stated it was also noted that DEQ was not excited about funding, but in their by-laws it stated this is something that must be considered because this fund was used for sewage treatment plant upgrades. She stated the request for funding for this year would have to be submitted in by June so this was something that would have to be discussed relatively quickly and the advantage would be the interest rate, which was 2 per

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cent. She stated this was almost like free money in her view. She stated those were the most important things.

Mrs. Baker stated they had representatives from American Farmland Trust and The Department of Agriculture and Consumer Services and they touched on the farm bill to keep people in the loop and talked about the transfer of development rights. She stated she knows the Board would be having a presentation concerning TDR sometime in May and wanted this Commission to know.

Mr. Apicella asked if there was a website regarding new TDR legislation.

Mrs. Baker stated the Governors page had legislative tracking and the approved version was there.

Mr. Smith stated he could look to see if his office had any information concerning the TDR program.

Mrs. Baker stated there was a Virginia United Land Trust Conference to be held at Wintergreen on June 11 and 12, 2009 and that would be \$75.00 a day for a two day session. She stated they would have some PDR related issues there also.

- **Quantico Easement Program**

Mrs. Baker stated concerning the Quantico Easement Program, a session was held a March 9, 2009. There was a very good turnout, with actually a few more people attending than the Stafford Public Information Session. She stated people were getting caught up in the fact that it was Quantico and perhaps another land grab like they had in the '40's. She stated Quantico had some follow up interest after the meeting and the biggest issue with the Quantico program was they did not have people leading the program. She stated if there was an interested party, they would have to approach Quantico or the County to try to get something in the works which was one of the issues and the timing may be a long drawn out process.

Mr. McClevey asked Mrs. Baker if she was talking about the County stepping up.

Mrs. Baker stated yes, they want the bordering locality to partner with Quantico and that was something our Board has not voted on as of yet. She stated the Economic Development department was coordinating between Quantico and the Board. We are offering whatever assistance they may need. She stated there have seen a few people that have called in and stated they were interested and we are basically putting them in touch with the contact at Quantico so they can explain things. She stated there was one last thing that was not put on the agenda, but the GIS department has come up with a map to document where there are existing conservation easements. She stated some of the areas may be open space lands for Homeowners Associations. She stated the entire parcel may not be an easement, but there would be an easement somewhere on the parcel. She stated eventually it will be linked with GIS and if you click on the parcel and it would pull up the attached plat and you would be able to view the location. She stated park lands were also on the map, because they seemed to be appropriate open space designation. She stated she would pass the maps out to the Commission members. She stated the Commissioner of Revenue picked them up with the deeds and there may be old ones that were not picked up. She stated staff contacted VOF and DCR and both of those agencies sent information that was cross referenced. She stated some may have been missed, but felt it was close.

Ms. Kurpiel stated it was great it was on paper.

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Mrs. Baker stated that was one of the things staff was referencing when working through the ranking criteria.

Mr. Coen stated in reference to the Quantico easement, he and Ms. Kurpiel and Mr. McClevey were there and one of the things he liked was some of the people made positive references to Stafford's proposal. He stated Quantico was very vague. He asked Mr. McClevey or Ms. Kurpiel if they wanted to say anything about the Quantico session.

Mr. McClevey stated Ms. Kurpiel made an observation about the developers being interested in donations.

Ms. Kurpiel stated there were developers at the Quantico meeting and there was one at the Stafford meeting and she applauds them for what they are doing. She stated one was recorded December 23, 2008. She stated she understood there were more that were working and it was unfortunate the developers were in that position, but it was a way to get money. She stated she spoke with Sara Richardson of DCR and she confirmed.

Mr. McClevey stated the developers were doing it for the tax credit.

Ms. Kurpiel stated there was someone that was very critical of the Stafford program, and asked her why Stafford was spending money for something people would donate to the State.

Mrs. Baker stated the developers were going to get a little more out of the credit part than some of the landowners.

There was a brief discussion concerning the easement that was recorded in December.

Mrs. Baker stated staff had a copy.

Mr. McClevey asked if they were conservation easements or...

Ms. Kurpiel stated they would not be PDR because there was no payment for them. She stated the situation with the developers land was the parcels were a lot bigger than what the Committee could afford to buy. She stated the only alternative would be the conservation easement and the developers would get the Virginia credit and the deduction which could be substantial. She stated she got the sense that all of the applications would be over a million dollars and would all be reviewed by staff of DCR. She stated if they would expect to get the credit it would have to go through the review.

Mr. Apicella stated there was a cap of the tax credits.

Ms. Kurpiel stated she thought that was because there was some abuse.

Mr. Apicella stated as a result of the abuse, there was now a cap.

Ms. Kurpiel stated that was because the tax payers of Virginia are actually paying. When the General Assembly passed the tax credits they did not reduce their budget, so if people apply for credits it means the taxes do not get paid. There would have to be money available for that program and Virginia has a poor record in terms of conservation and they spend the least of any state in the union until you consider

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the tax credit program, which was awesome. She stated you could thank Bill Howell because he wrote it.

Mr. Ritterbusch asked if there was any type of clearing house.

Ms. Kurpiel stated hopefully we will have that here next year. It would go through the land records.

Mr. Coen asked if there was an internal thing in the Commissioner of Revenues office when something goes through.

Mrs. Baker stated that office would have to query a report and run a specific report.

Mr. Keyes stated once the Commissioner of Revenue identifies what comes from the Clerk's office, they can flag it in the computer system and note this specific parcel has an easement so that a search can be run at a later date. He stated that was the report Mrs. Baker was speaking of and if something was from twenty years ago he can not be sure it was in the system. He stated he stumbled upon one from years ago because a citizen was asking questions about the parcel.

Mr. Coen asked if the Committee would need to politely ask someone to try to get a certain mechanism so that would not be a problem in the future.

Mr. Apicella stated he thought it was great that we can show parcels with conservation easements and the map shows some nice big parcels. This program has been out there for a while, so without the PDR program there was not incentive to grow.

Mr. Coen asked if the Committee would need to ask the Clerks office for some type of procedure or what would we need to do.

Mr. Keyes stated there was a system in place and it comes through the Commissioners office.

Mr. Coen stated he could understand the parcel from twenty years ago being missed, but not the one from November concerns him that it could fall through...

Mr. Keys stated maybe it would eventually make it to the Commissions office.

Mr. McClevey stated they have to be monitored in some way. He stated if the parcels are going to be monitored for the PDR program would somebody in the County be designated the monitor for easements.

Mrs. Baker stated the easement holder, like VOF or Department of Forestry, would have to set up the monitoring and enforcement. She stated the County would only be responsible for the one program unless we were to do something with Quantico, that would have potential for us to also monitor.

Mr. McClevey stated in his opinion it would be good to receive an annual report.

Mr. Coen stated the Committee would move to unfinished business. And the first topic was the easement form.

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4. Unfinished Business

- Easement form

Mr. Smith stated he thought he made all the suggested changes from the Committee. He stated one was Ms. Kurpiel suggested the Committee would not be participating in funding the appraisal for tax purposes so he added something to number 11 on page 15. He read “the Grantee was not responsible for providing or funding any appraisal or undertaking for tax purposes”. He stated that was clearly the responsibility of the landowner. Another item the Committee was concerned about was page 7, number 2 regarding the types of structures. He stated he tried to break it out and identify the exact location, once approved by the County, would have to be set out in a previously recorded plat or plat that was recorded along with the agreement. He stated he was not sure if it was this addition or the previous one that he eliminated the suggested one hundred foot riparian buffer. He stated he took that portion out and put a blank space in.

Mr. Apicella stated he would move to adopt the revised easement form.

Mr. McClevey stated he had a comment on page 10 under E, he stated it may be a technical thing, but there was not anything about watering cattle within the buffer. He stated in the third paragraph he would suggest “or watering of livestock in the buffer”.

Mr. Smith stated this language was directly from VOF. He stated he did not know if that was something that would technically have to be addressed, but he could certainly add it in.

Mr. McClevey stated he thought watering cattle may cause the animals to congregate and could possibly cause an impact to the area.

Ms. Kurpiel stated at the meeting yesterday there was some discussion about “do we all ask the donors to have a conservation plan on their property”. She stated she thought that was something the Committee should consider talking to the donors about and what ever would come out of the conservation plan would probably address the watering of cattle.

Mr. McClevey stated we are encouraging best practices.

Ms. Kurpiel stated the landowner could get paid for these management plans.

Mr. Coen asked if that would have to go in the deed.

Ms. Kurpiel stated it was something that, when the Committee was going through and looking at each application, it would be a question to ask the applicant.

Mrs. Baker stated that question was asked on the application, we ask if the landowner was willing to do that under the easement. She stated once the Committee was sitting down and talking to the property owner, it could be worked into the easement as a restriction.

Mr. McClevey stated he just thought it was something that would be needed.

Mr. Smith stated he could certainly add it.

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Ms. Kurpiel stated she did not think it should be put in at this time.

Mr. Ritterbusch stated there was nothing about asking the applicant about existing cemeteries.

Mrs. Baker stated when staff does the review and ranking about the historic cultural resources, staff would look in the database which does include cemeteries.

Mr. Ritterbusch stated if the historian has never been there, this was a chance to get that information in the system.

Mrs. Baker stated if the information was specific to cemeteries that would be something that could be added in the application.

Mr. McClevey stated he did not understand page 16, number 17. He stated it seems to penalize the owner of the easement because it looks like there was reassessment of the property and the landowner would have to pay...

There was a brief discussion between the committee members concerning the appraisal and assessment of the land.

Mr. Apicella asked for an explanation of number 17.

Mr. Smith stated this was taken from the VOF forms and was not contemplating that the County would be taking the property, it would be more like VDOT or the Federal Government. He stated the County would be compensated and the land owner would be compensated for a portion of what each would lose.

Mr. Apicella stated it seems the donor would come out on the short end of the stick.

Mr. Smith stated he could sit down with Mr. Keyes and depending on the situation, if the economy moves like it just did, would the applicant come in on the short end of the stick, because this was how the eminent domain proceeds would be divided.

Ms. Kurpiel stated there was an amount Stafford County would receive and an amount the landowner would receive through eminent domain.

Mr. Smith stated if VDOT came in and took the property and said here are the proceeds, this was speaking to how the County would be compensated for the loss of the conservation easement they paid for and the landowner would be compensated for the property subject to the conservation easement.

Mr. Apicella stated the landowner has the right to use the property but they can use that property.

Ms. Kurpiel stated it can not be used for development.

Mr. Smith stated what the County would consider to be the usable value has been greatly restricted, the potential economic value of the property has been wiped out and that was why this was in here, because even though the applicant was still the legal owner of the property they would not get all the benefit of the eminent domain proceeds. The County would get some of the benefit.

Mr. Coen stated the landowner would not have to pay anything back with eminent domain. He stated if the County has already paid for the development rights and VDOT were to come in and take the land, in

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theory they would give the landowner money and give the County money. He stated the County could then take that money and try to secure other land because the whole purpose of giving that landowner money in the first place was to preserve land.

Mr. McClevey asked if Stafford County would ever consider condemnation on a parcel that in the PDR program.

Mr. Smith stated he did not think under this deed of easement as it was written the County could, it was an agreement between the County and the landowner and would be considered to be a perpetual easement and could only be modified on the agreement of both parties as long as it was consistent with the program.

Ms. Kurpiel stated with a VOF easement there would be no eminent domain.

Mrs. Baker stated the Department of Forestry was the same.

Mr. Smith stated the County would have a hard time condemning their own perpetual easement.

Mrs. Baker stated that was something that could be put out to the other localities.

Mr. Coen asked if the Committee wanted to move forward with adopting this easement or wait until staff can get back regarding the eminent domain question.

Mr. Apicella stated there was not urgency.

Mr. Coen stated the Committee would wait until staff could get back with the information. He asked Mrs. Baker if there was a timeframe.

Mrs. Baker stated by the time the property would go to closing.

Mr. Smith stated this deed of easement was out now, but was in draft form, so people could see it.

Mr. Coen stated the Committee would move on the ballot initiative.

- Ballot initiative

Mr. Smith asked if all the Commission members had a chance to review. He stated he could not find a way to streamline and still include all the information that needed to be included.

Ms. Kurpiel asked Mr. Smith to read the question.

Mr. Smith read "Should the County issue bonds of up to two million dollars annually for five years and use the bond proceeds to compensate the owners of qualifying agricultural and forested property to agree for perpetuity not to develop the property for residential or commercial purposes by placing a conservation easement on the property which will be owned and enforced by the County, another governmental entity or a conservation organization".

Ms. Kurpiel stated it sounded like a land trap.

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Mr. Coen stated he did not like the part that states “which will be owned by the County”. He stated he thought it was vague and did not say the easement would be co-owned.

Mr. Apicella stated it did not state why it was good for the County and why it was good for the taxpayers.

Mr. Smith stated the question had to be neutral.

Ms. Kurpiel asked if a series of questions was reviewed from other jurisdictions. She stated she was not sure there were any ballot initiatives in Virginia, but Pennsylvania does this all the time and asked if the Committee could see how Pennsylvania worded theirs.

Mr. Coen stated Colorado, he know they would have different laws.

Ms. Kurpiel stated Pennsylvania was not a Dillon State.

Mr. Smith stated he was not sure if this would implicate Dillon. He stated the laws may be different, but they may be helpful.

Ms. Kurpiel asked Mr. Smith if he would like for her to try and get some.

Mr. Smith stated if she had a source, he could not think of one but would look.

Mrs. Baker stated as far as the localities in Virginia it would be Isle of Wight, Albemarle, James City and Virginia Beach. She stated she was not sure if they actually did a referendum because they had different legislation that was specifically approved. She stated they did actually do a bond to get the money, but she thought they had special legislation from the General Assembly. She stated staff could follow up.

Ms. Kurpiel stated she would try to get something from other jurisdictions out of Virginia.

Mr. Coen stated Arizona, Colorado and Pennsylvania.

Ms. Kurpiel stated there were at least ten or fifteen jurisdictions in Pennsylvania that had money specifically for this. She stated she would try to find out who they were and try to get some language. She stated there was also a consultant, but was sure he would like to be paid and we are not in the paying mode.

Mr. Smith stated we will be paying bond Counsel when we get to that point.

Mr. McClevey stated the Association of all Land Trust.

Ms. Kurpiel asked what are the legal requirements.

Mr. Smith asked if she meant for a bond question.

Ms. Kurpiel stated yes, for a ballot questions.

Mr. Smith stated it had to be sufficiently descriptive and neutral.

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Ms. Kurpiel asked if it had to go into all the details such as owned and enforced by the County or another conservation trust

Mr. Smith stated there was no requirement, he put that in just to be clear as to who was going to own the easement on the initiative, so they would not think the County would put the easement on the property and that was that. He stated it may be helpful to indicate the County or someone else would be in charge of the easement, but he did not think that was a requirement.

Mr. Apicella asked if the County would supplement the question with questions and answers.

Mrs. Baker stated that was what the County did with the Transportation Bond.

Ms. Kurpiel asked the issue with timing. She asked if the Committee would want the question before we ask the Board and asked where was the Committee in terms of asking the Board.

Mrs. Baker stated staff will be working on the Board package and most likely be going to the Board in May. She stated whether or not we have the specific question, was not needed for the Board to authorize it, staff was basically going to provide them the basic background information that they need in order to authorize the Committee to proceed. She stated then staff would go through legal and the bond people to get the technical aspects. She stated Mr. Neuhard indicated he approached the County Administrator and the Chairman of the Board to go in May.

Mr. Smith stated the question does not need to by to the Circuit Court until the August time period. He stated the Committee probably would not go to the Circuit Court before that, because the time for changing your mind would be over at that point.

Ms. Kurpiel stated she thought it would be better to have it all in the package going to the Board.

Mr. Smith stated if it were approved by the Board, it would have to go to the bond counsel for review in June or early July. He stated she may be busy with other localities and issues as well and that would give her time to look it over and get back to us if there were any changes that may need to be made.

Mr. Coen stated if the wording could be worked on for the meeting next month he would feel more comfortable to get it into the Board package.

Ms. Kurpiel asked Mrs. Baker if she came up with any information would she send it to the Committee in an email to allow time to review.

Mr. Coen stated the better prepared the better. He stated, in his opinion, that was something that has helped the Committee all along, because of the well thought out presentations.

Ms. Kurpiel asked the Committee if they still wanted to go forward with the bond referendum, even in the terrible market.

Mr. McClevey asked if the County's bond rating was still a concern.

Mr. Smith stated Mr. Neuhard would know better the where the County was on that issue and what level.

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Mrs. Baker stated that was probably something the Board would have a discussion on when this issue goes back to them. She stated the Board said go forward with it, be working on it and bring it back. She stated now the Committee would be bringing it back and it was going to be very timely because the Board will have the budget and would be looking at those issues and will know what the debt services would be. She stated that question will be discussed during the Board meeting and that may be their determining factor.

Ms. Kurpiel stated she looked today on how many homes will be developed in the agricultural area and the total number of properties developed in 2008 and 2009. She stated since Planning does not keep track of what was in the agricultural area and what was in the USA, she went to the health department and asked how many permits they issued for drainfields. She stated in 2008 there were 181 permits issued for drainfields and Code Administration issued 542 new residential occupancy permits and 181 of those homes had drainfields which was thirty-three per cent. She stated if you look at the cost of infrastructure that was almost 17 million dollars. She stated she then looked at 2009 and so far this year there have been 55 permits issued for houses and 16 of those had drainfields, so that was twenty-nine percent that had drainfields and the infrastructure cost was 1.5 million. She stated when you put it in those terms she felt it was a convincing case to do the program.

Mr. Coen stated the Committee would move on the new business, title policy.

Mrs. Baker stated before we move on, Mike Keyes was specifically asked to attend to discuss with the Committee further verification on the A-1 verses A-2.

Mr. Keyes asked if anyone had a direct question.

Ms. Kurpiel stated it was mostly a valuation question.

Mrs. Baker stated it was one acre verses three acre and A-2 verses A-1 and having the same value.

Mr. Keyes stated the market value of A-1 and A-2 land was different. He stated the Committee had discussed if they wanted to do a different value for the development right, but the decision was not because the Committee thought since you would be buying a development right and not acreage, the goal of the program was to prevent rooftops and not to collect acreage. It was not based on the size of the lot but what the Committee thought it was worth it to stop that house from being built. He stated a lot of the thirty thousand dollar price was set based on what each house built in the County costs the County. He stated when the calculations were done it was not based on the acreage the house was sitting on, it was based on the house being a ninety thousand dollar negative for the house to be there.

Ms. Kurpiel asked Mr. Keyes if he would speak to the relative market value of each of those.

Mr. Keyes stated at the last assessment, three acre lots ran about 150-175 thousand dollars and one acre lots ran 100-120 thousand dollars. He stated the current base market with what few lot sales there were, one acre lots sold for 80-100 thousand dollars and three acre lots sold for 80-120 thousand dollars, so there was a much smaller gap now. He stated that would go back to once you put that house in a rural area, if it was a building lot that was where the value was not extra acres.

Ms. Kurpiel stated that was interesting. She asked if the sales discussed were distressed sales.

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Mr. Keyes stated he has seen a lot of distress sales and with those three acre lots went for 50-60 thousand dollars and fair market or limited pressure was in the 80-100 thousand dollar range.

Mrs. Kurpiel stated she would like the small developers to know about the tax credit programs.

Mrs. Baker stated some of the small guys are out of the business.

5. New Business

- Title Policy

Mrs. Baker stated she would be very brief on the title policy, the Committee talked about it and still had some decision to make. She stated she handed out some information from Virginia Outdoor Foundation because they require preliminary title information. She stated the information handed out was information VOF sends out to people who are interested in their easements to let them know they will have to have title insurance done at some point. She stated that would need to be worked into the procedures for Stafford. Once the final ranking was complete and the Committee sits down to talk to landowners this was something that would have to be done, the Committee just would have to figure out who was going to pay for what and that type of thing. She asked the Committee to look at the information.

Mr. Smith stated he asked one of the legal secretaries who dealt with title work in-house, how much the County paid outside title people. He stated she pulled some information, and they were not similar to a conservation easement situation, but the average cost for a title search was about three thousand dollars and the average insurance was about two thousand dollars. He stated that may change depending on what the Committee was doing. He stated he would see if the title company the County uses would work up some type of hypothetical quote on an easement.

Mrs. Baker stated Albemarle, in the year they closed on four properties totaling four hundred and eighty-eight acres their total title insurance was twenty-four hundred dollars and that did not include the title work. Virginia Beach could not give an average estimate because it depends on the price. She stated staff has more research to do concerning title work and insurance, if any of the work can be done in-house or if the outside attorneys would have to do that work.

Ms. Kurpiel asked if all the applications that came in are mortgage free.

Mrs. Baker stated no.

Mr. Coen asked if there was anything else concerning title policy.

Mrs. Baker stated staff would get back with more specific information.

Mr. Coen stated lets move on to pilot program policy issues.

- Pilot Program policy issues

Mrs. Baker stated there were just a couple that staff wanted to discuss tonight. She stated the Committee talked about a similar one last time where there were different points for different circumstances. She

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stated the one under question 2-D, it says “landowners have agreed to any of the following restrictions”. You have timber harvesting restrictions or timber buffers - you get 10 points, no new dwellings – you get 6 points and parcels shall not be further subdivided – you get 3 points. She stated when the initial points were set out it was an either or circumstance, because your maximum for any of the categories was 10 points. If you put your timber harvesting restriction, 10 points and you say you will have no new dwelling, are people going to expect to get 10 points plus 6 points. She stated again the Committee needs to make it clear, when doing the rankings, that you would be getting the maximum of 10 points no matter what. If you look at the preamble and the property ranking it says “the maximum total score is 175 points, so any of the categories have a possible point maximum. She stated staff wanted to point it out that they feel they are only going to put a maximum of 10 points, but it may be a little unfair the way it was written, so when the Committee goes back to review the ordinance that may have to be looked at. She stated looking at them now that staff is actually doing it in a real world situation, things are coming to light that that was how we should have done it.

The Committee and staff had a brief discussion concerning timber harvesting and points. Mrs. Baker stated she did not know why timber harvesting was put in with dwellings because it was two different issues. And maybe it will be broken out into its own separate category.

Mrs. Baker stated the other one was in the environmental part, which was question 4-C and says “proximity to areas identified as having high environmental value such as state or federal parks, exemplary wetlands, critical areas, designated wildlife refuge or corridor and threatened or endangered species habitat”. She stated we know where state and federal parks are, we know if there is a designated wildlife refuge and we know from DCR data where threatened or endangered species habitat potential was and in some cases may cover an entire area that will encompass an entire lot. She stated if a dot falls within your parcel, staff will say you have the potential for threatened or endangered species habitat but what staff was having trouble with was the exemplary wetlands, critical areas or wildlife corridor, because staff does not have anywhere in the County regulations what is an exemplary wetland and you can not go to DCR to ask what is an exemplary wetland in Stafford County. She stated staff was struggling with that and with the critical areas, because staff does not have anything designated as a critical area in the County, there may be some state designations but they fall under those categories that are under the first one, the C-1, the C-2 and so on.

Ms. Kurpiel asked Mrs. Baker if a designated wildlife could be considered.

Mrs. Baker asked what was a designated wildlife corridor.

Ms. Kurpiel stated, in her opinion, staff could use the corridors on the Heritage Resources Map and without anything else that could be used this time.

Mrs. Baker stated staff did discuss that, but then you get into the areas where it was the corridor and the nodes.

Ms. Kurpiel stated just the corridors, the nodes are covered in the other question.

Mrs. Baker stated the way it was laid out through GIS was a little different and have different values. The ranking, the C-1, C-2, C-3, C-4 and C-5 are the areas of significance. The core habitat areas correlate to those areas and the corridors just link.

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Ms. Kurpiel stated it was her understanding the corridors are just the connecting course or the shortest path. She asked concerning the exemplary wetlands, what was an exemplary wetland.

Mrs. Baker stated the County does not have a definition and the State does not have a definition.

Mr. McClevey stated he could see if the Department of Game and Inland Fisheries have some sort of definition.

Mrs. Baker stated to go further, was that the type of question the Committee wants input on or do you want staff to make a decision on how that will be done, as long as it was done consistently across the board.

After a brief discussion between the Committee and staff concerning the questions and the determinations, Ms. Kurpiel stated she would be happy if staff made the determination and give the Committee a copy.

Mrs. Baker stated with the new comp plan there are certain things being discussed like green infrastructure, corridors and things like that and once staff has those things identified at the County level she thought it may be a little more applicable. She stated in general, when going through the deeds and the information on the property, some of the information will not come out in the ranking. For instance there was one property that has a deed restriction on how that property could be developed and was tied to the owner of the property, not to the land. She stated that property could be sold tomorrow and the property could be subdivided, but as it exists under its current ownership it can not be subdivided. She stated staff will end up making additional notes when the information is presented back to the Committee that there may be other factors to consider when looking at the ranked properties. She stated staff will rank the properties based on the ranking criteria, but for the purpose of the Committee will add the caveats.

Mr. McClevey stated when the applicant files the application, the question was being asked if there were restriction or encumbrances on the property. He stated it may be irrelevant and asked if the Committee would care.

Ms. Kurpiel stated she would think the Committee would care because if there were any deeds of trust they would have to be subordinated. She stated mechanic liens and all those things could put the Committee in a position that we do not expect to be in, so they are of interest to the Committee.

Mr. Coen stated the next step, when it goes to the Board, they will be looking at, not just the ranking, but all the other data when they make their decision and it would ultimately come up and would make a better process if staff said here was what the ranking was and here are some other things of interest.

Mrs. Baker stated another situation was a piece of property that currently has very limited road frontage and was served by a private access easement. She stated the property was capable of being further subdivided. The County has certain standards such as a certain amount of state road frontage, because they already have the maximum number of lots allowed on the private road, technically the property can not be subdivided further until they provide stated road access back to the property. In order to do that the landowner would have to acquire land from adjacent property owners to allow for the state road and dedicated right-of-way. She stated staff has to make the call whether or not the land can be subdivided. Yes, it could be, but not as it stands without extenuating circumstances and you may have a property

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owner that does not want to give up additional land so it would not be allowed to be subdivided under the current regulations. She stated the property will still be ranked but that was another thing that would show up. She stated it could also be deemed not eligible. She stated that was just a question that came up and those were some of the additional issues staff was looking at.

Ms. Kurpiel stated when meeting with all of the potential donors, one gentleman asked a question. He stated he lived in Maryland and could use the tax credits. She stated she found out that if property taxes are paid in the state, that property owner can get the credits and they can be sold. She stated that was an opinion from the Attorney General.

Mr. Coen asked if there was any other new business.

Mr. Apicella stated he had a question about protocol. He stated to protect the Committee and a former member who may want to participate in the program. If this person exited the Committee in time where they would be eligible and there was no conflict of interest they might submit an application.

Mr. Smith stated he could talk to Mr. Howard.

Mr. Apicella stated he wanted to protect all parties so it would be fair and transparent.

Ms. Kurpiel stated at one point in time there was a stipulation in the agreement that anyone who served on this Committee would not submit until they were off of the Committee for some period of time.

Mrs. Baker asked what kind of agreement.

Ms. Kurpiel stated very early on, it may have been the first one.

Mrs. Baker stated she did not know what the agreement was.

Ms. Kurpiel stated it was the programs details that the Board passed.

Mrs. Baker stated the Ordinance.

Ms. Kurpiel stated yes, the proposed Ordinance. It was not an Ordinance at that time it was a working paper, but it was removed.

Mrs. Baker stated she did not recall that.

Mr. Apicella stated if it was not there he was not sure it was applicable, but just to be fair and make sure this person that exited the program, before any decision were made to make sure everything was okay if this person submitted an application.

Mr. Coen stated two members were contemplating and did not even enter into the ranking criteria, which he felt was honorable of both of them. He asked the Committee if there was any other new business.

6. Next Meeting

- April 28, 2009 Regular Meeting

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Mr. Coen asked if everyone was okay with the April 28, 2009 meeting. He stated so far he has the easement to look at the eminent domain issues, the update on the ballot issue to move forward and discussion on the title. He stated it could be added to, these were just the things he knew that were being carried over from this meeting to that one.

Ms. Kurpiel asked Mrs. Baker the last date for application to be in.

Mr. Coen stated April 30, 2009

8. Adjournment

With not further business to discuss Ms. Kurpiel made a motion to adjourn. Mr. Apicella seconded. The meeting was adjourned at 8:41 pm.